

Town of Newington, NH

PLANNING BOARD

Meeting Minutes, Monday, December 16, 2019

- Call to Order:** Chair Denis Hebert called the December 16, 2019 meeting at 6:00 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Vice-Chair Erika Mantz; Board Members: Christopher Cross; Ben Johnson; and Peter Welch; Alternate Board members, Rick Stern and Jim Weiner; Board of Selectmen's Representative, Mike Marconi; Town Planner, Gerald Coogan and Jane Kendall, Recorder
- Absent:** Board member, Russ Cooke
- Public Guests:** Greg Mikalatis, P.E. with August Consulting; Matt McGovern, CEO and Jim Tully with McGovern Subaru; Ben Clarke and Tim Nichols, with ACM Engineering; Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering;

I) Public Hearings:

- A) Site Review for **Subaru Automotive Sales** facility to be located at the former Toys "R" Us building located at **85 Gosling Road, Tax Map 34, Lot 3-1**

Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering stated that the engineers had made a good attempt with their initial submission, but there were a few items that the Board still need to weigh in on.

Greg Mikalatis with August Consultants stated that they had a preliminary consultation before the Board on August 26, 2019, their plan was accepted as substantially complete on October 15, 2019, they had their review with the Technical Review Committee (TRC) on October 27, 2019, and felt that they could address the comments from Altus Engineering.

Mr. Mikalatis said they would present their landscaping plan to the Conservation Commission on January 9, 2020.

Mr. Mikalatis stated that they were using the existing building, and not developing to the lot limit. Mr. Mikalatis said the redevelopment disturbance would be under the

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20,000 square foot threshold, and that he expected it to take six to eight months to complete the interior renovations

Ben Clarke with ACM Engineering stated that most items had been addressed, and went through the changes to the plans. Mr. Clarke said additional materials, including the Bond, calculation of water use, discussion on waste water with Dennis Messier, operations manager at Newington Waste Water Treatment (NWWT), and a report on condition of ash trees had also been provided. Mr. Weinrieb suggested putting those notes on plans.

Discussion ensued regarding whether the lot was a legal subdivision from the mall or not. Mr. Mikalatis stated that it was a leased lot, but it was called a subdivision because a subdivision was created and signed by the Newington Planning Board in 1983. Chair Hebert said the original conditions of approval needed to be included in the record.

Mr. Weinrieb said he thought the subdivision had to do subdivisions on strip malls with long term leases, but they would need to determine if the leased area was a part of the lot to determine how it was to be treated. He said if it was a part of the entire lot, then it would be a part of the Alteration of Terrain (AoT) of the entire parcel, but it would require its own AoT if it stood on its own.

Mr. Mikalatis said it looked as if it was done for financing. Chair Hebert suggested that they have their attorney work with Town counsel, Attorney John Ratigan.

Chair Hebert said minor administrative changes would be okay, but he wanted to be sure that what was presented to the Board would be what would be recorded. Chair Hebert said he and Mr. Weinrieb, and the planner see the final plan, but the Board doesn't. Weinrieb stated that the recording standards at Rockingham County Registry of Deeds were stringent, so they would want to be sure that the updated plan was recorded carefully. Town planner, Gerald Coogan said they would usually return with completed plan.

Mr. Weinrieb said want to remind Board that pavement was distressed in many places and they were cutting and patching, and cutting and regrading in some places. He said it was his opinion would be better to replace completely, but up to the Board.

Board member, Chris Cross said refurbishment of the existing pavement was sufficient, but he was concerned that the paving around the perimeter needed redoing to prevent runoff.

Alternate Board member, Jim Weiner said he thought the pavement was worse than he thought, and thought it would be worth the expenditure to improve the site.

Chair Hebert noted that former applicant for Bernie and Phyl's didn't want to re-pave either, but they're glad they did because it was more inviting for new customers.

Mr. Stern agreed, stating that traffic went in and out of toy stores, but auto dealership customers walked around, and they didn't need any differences in pavement height to trip on.

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Mr. Weinrieb went through his list of questions, starting with item #18, regarding the small landscape island between customer parking on their initial between customer parking switched back and forth with a guard rail. Mr. Clarke replied that the purpose was to prevent customers from running into inventory. He said they considered an island, then received comments that they should widen the area for trees and shrubs. He said then they looked at drainage implications, so decided a guardrail would be the best. Chair Hebert suggested removable bollards to save time.

Discussion ensued regarding questions on lighting in item #32. Mr. Clarke stated that he had just received the revised photometric plan that would follow the same lighting plan as Aldi's and the rest of the Crossings Mall. Mr. Weinrieb said he had told Alishia Busconi, V.P. for KeyPoint Partners, property managers for Crossings that she needed to submit clearer photometric numbers for his review.

Alternate Board member, Rick Stern asked if lights would be on for 24 hours. Mr. Mikalatis said there would be security lighting around the building, but they hadn't seen the plan yet.

Mr. Weiner said he would assume that they would have the same lighting as their other facilities. Mr. McGovern said they usually meet local regulations, and would place security lights lower on the same pole, that could be turned down in the evening. Chair Hebert said he wanted to see a plan for both lights on the same poles. He said he also wanted to be sure that bright LED lights didn't shine out on the access roads.

Mr. Clarke said the photometric plan needed to be revised to show security lighting at back, but the lumens from the ground were meeting the requirements. Chair Hebert responded that it might meet the requirements, but they still needed to be sure that they were shielded.

Mr. Weinrieb commented that the site was developed prior to treatment requirements, and the applicant's plan for stormwater leaving the site was an improvement, but this might be the last time for the Board to address the site for some time. Chair Hebert asked if proposal better than existing. Mr. Weinrieb said existing was not working so their plan was better than existing.

Chair Hebert asked if there would be any flooding to abutters. Mr. Weinrieb said there was a reduction of peak flow as it left the property. Mr. Clarke added that nothing was being treated now, and that Plan #103 showed that 54-58% of the lot would be treated. He said their plans called for catch basins and culverts to replace with stormwater treatment.

Mr. Clarke said they were not changing the pattern where water goes, but there would be riprap holding back a significant volume of water before slowing the water to the swale. He said two edges of pavement would be difficult to treat because of wetlands, but they were considering gaps in curbing to allow water to flow out and riprap aprons to prevent ponding.

Mr. Weiner said the additional 58% was good, and most cars were new and there would be no leaking. He said his only concern would be with leaking vehicles coming in

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for repair and where the leaks would go. Mr. Mikalatis said cars would go into the internal storage area, before going into service bays where internal drainage would flow to an oil water separator. Mr. McGovern added that cars for service were stacked inside, and only a few would be parked outside after they were repaired. He said the floors were mechanically cleaned, and they had an oil water separator that was maintained annually.

Chair Hebert asked if there were alarms in the oil water separator, and suggested that there be a monthly inspection. Mr. Weinrieb said the only reason alarm would go off if backed up. Board of Selectmen's representative, Mike Marconi added that some applicants provided reports to the building inspector.

Jim Tully with McGovern Subaru said their servicing company goes with a chemist in to their facilities in in Nashua and Massachusetts two or three times a year. Mr. Marconi asked if a maintenance report could be provided yearly.

Mr. Cross asked what their plan was for snow removal and storage. Mr. Clarke said there was a snow storage area in a grassed area because they couldn't store snow in Eversource's easement area. Chair Hebert said he thought they could have use of property so long as there was no impediment to Eversource. Mr. Weinrieb said Eversource was concerned with front end loaders reaching up to some areas.

Mr. Cross said he was afraid if they couldn't store snow in the north area, they would it would be pushed to the south in the untreated drainage area. Mr. Clarke replied that the area already wasn't treated already, and they were proposing to repair the existing apron.

Mr. Weinrieb said they might be able to redirect flow in the area that abutted the wetlands, and noted that they had recommended 6'x6' tree box filters with a treatment device, typically put in the curbside. Mr. Clarke said they could investigate filters instead of the tree plantings.

Mr. Cross he thought there would be a lot of salt and debris flowing from the service bay entrance down to the untreated area. Mr. Clarke said it flowed down naturally and then flowed to the corner. Chair Hebert suggested a catch basin. Mr. Clarke said they could do a drainage analysis, but thought there would be a lot of expense for additional infrastructure for very little drainage. Chair Hebert said he didn't think it was a large area.

Board member, Ben Johnson pointed out that the Ordinance required that they met 50% treatment, and they were meeting 58% with this proposal where there was none before.

Mr. Cross asked if there would be additional wayfinding signage, and Mr. McGovern replied that he wasn't sure what their bylaws called for, but he would check.

Mr. Stern asked about the entrance and exit for car delivery trucks. Mr. Clarke replied that they had had a template. Mr. Cross asked how they would make a right turn in from the Gosling Road entrance near McDonald's from I-95 or the Spaulding Turnpike. Mr. Clarke pointed out that Toys "R" Us took deliveries, and said their trucks

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wouldn't be any different. Chair Hebert noted that the fire department's ladder truck was wide, and so he was concerned with offsite improvements. Mr. Clarke said vehicle deliveries were to take place on site.

Mr. Cross suggested that their delivery trucks avoid congestion at the McDonald's entrance, and instead travel down Gosling Road to take a right up Woodbury Avenue because it was more open.

Chair Hebert stated that a condition of approval would be to have all inventory on site.

Chair Hebert said the plan was fairly complete, but he was not sure if they were ready for conditions of approval, and would like to see a site plan that was acceptable to Rockingham County Registry of Deeds.

Chair Hebert stated the Board would move on the parking waiver at the same time as conditions of approval. Mr. Weinrieb commented that he recently asked about expanding the parking demand chart in the site plan review because there were not enough categories.

Chair Hebert continued the hearing to January 13, 2020.

B) 2020 Zoning Ordinance Amendments:

The following items were revised as continuation of public hearing items from the original agenda.

1) Proposed Amendment to Zoning Ordinance, Article VIII, Wetlands Overlay District and Wetlands Mapping

Chair Hebert said the Conservation Commission did a good job trying to reduce restrictions of smaller wetlands, but several residents perceived it as a taking so he and Conservation Commission Chair Jane Hislop had discussed dropping the amendment. Mr. Weiner, who also served as Vice-Chair of the Conservation Commission said they had decided to keep and use the updated map as an existing stand-alone tool for the building inspector, planner, property owners and land use boards.

Chair Hebert said anyone developing property would still need to hire a wetlands scientist to delineate their wetlands, so it was still a good tool.

Chair Hebert asked if the map would be updated to show current setbacks. Mr. Weiner replied that it would change with just one blue color for 100-foot setback. Mr. Cross commented that the Commission had provided a lot of clarity, and he was sorry it didn't go through because the update would have defined and isolated significant contiguous wetlands, and now all the existing wetlands would remain with a 100-foot setback.

Chair Hebert announced that two Board members were absent, so the two alternate Board members would vote.

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Jim Weiner moved to table the proposed amendment to Zoning Ordinance, Article VIII, Wetlands Overlay District. Mr. Marconi seconded the motion and the motion passed with Chair Hebert voting in favor, and Chris Cross opposing.

- 2) Proposal to add **Article IV General Provisions, Section 14 - Gas Transmission Pipeline**: *There shall be no new residential construction within 200 feet of the right-of-way of a major gas transmission line in the Town of Newington that runs along Arboretum Drive and Patterson Lane*

Mr. Cross reviewed previous discussions regarding his proposal to increase the 50-foot construction setbacks to a 200-foot-high-consequence setback for escape from the possibility of a random explosion from the major gas transmission lines.

Mr. Cross said that studies had shown that there was 750 feet burning radius, but the Federal government only required a 50-foot construction setback. He said explosions were rare, but they did happen randomly, and that increasing the setback could give residents a better opportunity for escape.

Mr. Marconi asked if anyone else had called for increased setbacks. Mr. Cross replied that the runway at Pease was considered a high value asset with a 250-foot setback that coincided with the clear zone for impact, and Kansas and Washington also had greater setbacks.

Mr. Cross said the proposal was only to restrict residential dwellings, and not accessory buildings. Mr. Cross said Exeter had a proposed housing development next to a gas pipeline, and they agreed to a compromise that land would be set aside for public

Mr. Marconi asked if there would be liability for the Town. Mr. Cross replied that an increase setback would help prevent loss of life.

Mr. Stern said he was concerned with liability for the Town if a 250-foot setback wasn't enough protection. Mr. Cross said the states of Kansas and Washington had said that it was determined that it would take 30 seconds to walk 250 feet to get outside of the thermal radiation. He said he understood that terrain, trees, and structures were variables.

Board member, Peter Welch asked what the impact of explosion would be. Mr. Cross said he hadn't read any analysis on further impact, but noted that the pipes were buried 30 to 36 inches deep, and it would depend on whether it was buried in sand or gravel whether rock would become an additional projectile.

Mr. Cross said it was not a safety setback, but an escape zone from a high consequence area. Chair Hebert agreed that it was about distance and time for escape.

Mr. Marconi said he didn't think the Town needed to lead the change, and that he thought the subject should be studied more.

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Chair Hebert said he talked to one resident on Patterson Lane that thought it would be a good thing to keep the neighborhood safer.

Mr. Johnson said there was no proof that a home could withstand a blast from 200 feet, and wondered if it would be better to require developer in proximity of a high-pressure gas line to build a berm. Chair Hebert said they could, or there might be other methods to increase escape time.

Mr. Stern suggested that they needed experts to provide a recommendation. Mr. Cross replied that an expert would be very expensive. Chair Hebert added that there were gas industry supported experts, and population safety experts, but there weren't many in the U.S. Chair Hebert said the Board could spend two to four years reviewing research with experts that wouldn't agree, and then be considered liable.

Mr. Weiner said he was in support of a 200-foot setback requirement, but suggested that a legal disclaimer would be advisable that there were no guarantees if 750 feet was considered within a dangerous blast zone, but the Federal government required a 50-foot construction setback.

Mr. Weiner added that he was afraid the Town could be held liable since they began talking about it if they didn't do something. Mr. Marconi said he understood, but he as concerned that they should have more technical support for their decision.

Vice-Chair Mantz said that she would hate to see the Town spend money for research, and then back down when there's pushback as happened over the wetlands ordinance amendment. Vice-Chair Mantz said she understands problem with hiring someone with a vested interest, but she thought you're either in it or not.

Chair Hebert said the big companies would want to protect their interests, but the Board had identified property owners, and suggested the consideration of safety berm or building design standards for starters.

Chair Hebert said that hurricane and tornado structures were different in the Midwest and south than in the northeast. Chair Hebert said the air base talked about distance and berms and that was all that could be done, Chair Hebert added that there would still be a lot of impact with a berm, and a developer could be informed that they would develop at their own risk. Chair Hebert said there would be legal notification to property owners when zoning for setback.

Mr. Welch said people could try to flee, but he was afraid that they were minimizing the hazard, because they might not survive an accident near 750 feet of an exploding gas line. Chair Hebert said they were talking about design standards within 200 feet. Mr. Cross agreed that it was hard to say what was a safe distance, but said they could say that anyone developing near a high-pressure gas line would need to show that they were taking precautionary steps.

Mr. Weiner said he agreed with Mr. Welch that the blast line was unpredictable, and that there were no guarantees, so they needed a liability statement that. Mr. Stern suggested having Town counsel write up something that everyone could agree on.

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Mr. Cross said developers would need to address and document the proximity of hazard. Jane Kendall of Nimble Hill Road mentioned that property owners would need to inform anyone buying property of the dangers.

Mr. Coogan said the requirements could be done through a subdivision amendment instead of a zoning amendment because it would be a physical change. Mr. Cross said he would prefer a change to the Ordinance because it was a principle for public safety.

Chair Hebert continued the hearing to January 13, 2020 or January 22, 2020

III) Other Business:

A) Sign Ordinance Amendment

Mr. Coogan passed out a revised sign ordinance done by the Board of Selectmen, and Attorney Ratigan. Chair Hebert said he thought the Town was compliant when they did a revision three years ago, but the ACLU wanted to see more. He suggested that Board members take it home to read for the next meeting.

Mr. Marconi stated that the Board of Selectmen and Town counsel had reviewed the amendment, but asked that the Planning Board review it, and consider putting it on the ballot.

B) Town Roads

Mr. Marconi informed the Board that they had voted to accept Lydia Lane and Fabyan Point Road.

Mr. Marconi added that they were thinking of changing the name of Lydia Lane to better reflect the Town's history.

V) Additional Discussions:

Chair Hebert commented that he would like to see a better strength material for Town roads to avoid concrete settling. He said he would also like to see low wrap pavement. Mr. Weinrieb commented that regular pavement was low wrap, or with recycled materials, but it didn't hold up as well. Chair Hebert said he wanted to place the discussion on the next meeting's agenda.

Chair Hebert asked what that extra expense for what Mr. Johnson used when building Fabyan Point Road. Mr. Johnson replied that it cost a couple of thousand dollars. Chair Hebert said he wanted to change the materials in the regulations, so the Town didn't have to repair roads as often.

Mr. Cross asked where they would use recycled pavement, and Mr. Johnson said they could use it on the shoulders. Chair Hebert added that they sometimes grind

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and use it as a base. Mr. Weinrieb said they could use in the Town Hall parking lot because they wouldn't need as much durability or want the extra expense.

Mr. Weiner asked if used whenever a new curb cut or a utility access was done, and wonder what could be done. Chair Hebert said the City of Portsmouth always used it for fill, and it settled. Mr. Weinrieb said only 30 inches of concrete pipes were in the frost area, but it was never the same even if they did a perfect job, but it would be better if they went back after frost and did a full cut. He

Minutes: *Approval for the Minutes for the December 9, 2019 meeting were postponed until the next meeting.*

Adjournment: *Peter Welch moved to adjourn the meeting. Mr. Johnson seconded the motion and the meeting adjourned at 8:35 p.m.*

Next Meeting: Monday, January 13, 2020

**Respectfully
Submitted by:** Jane K. Kendall, Recording Secretary

These Minutes were approved and adopted at the January 13, 2020 Planning Board Meeting.